

Group VI: Claims 37-42, drawn to an isolated polypeptide.

Applicants elect, with traverse, Group V, Claim 36, for further prosecution.

The Office has characterized the inventions of Groups IV and VI as related as process of making and product made. Citing MPEP §806.05(f), the Office concludes that the product as claimed can be made by a different process "isolated from their source organism." However, there is no evidence of record to show that the claimed product can be "isolated from their source organism" as the Office has alleged. If in fact the claimed product can be obtained as alleged, Applicants respectfully submit that the Office has not shown how this is materially different from the claimed process. Accordingly, Applicants respectfully request withdrawal of the Restriction Requirement.

In regard to Groups I and VI and Inventions II, III, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the product of Group I can be used as for hybridization reactions and the proteins of Group VI can be used to produce antibodies. However, the Office has not provided reasons and/or examples to support this conclusion. Further, the Office has failed to show that the proposed uses are materially different from the claimed use. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

In regard to Groups I and IV, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the product of Group I can be used as for hybridization reactions. However, the Office has not provided reasons and/or examples to support this conclusion. Further, the Office has failed to

show that the proposed use is materially different from the claimed use. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

In regard to Groups I and VI and Group V, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the method of Group V can use a nucleic acid molecule encoding an enhancer of SOS 1 expression. However, the Office has not provided reasons and/or examples to support this conclusion. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

The Office has characterized the inventions of Groups II-V as unrelated. Citing MPEP §806.04 and MPEP §808.01, the Office concludes that these groups are unrelated due to “divergent method steps.” However, the Office has not provided sufficient reasons and/or examples to support this assertion. The Office has merely stated the conclusion. Accordingly, the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Accordingly, Applicants respectfully submit that the Restriction Requirement should be withdrawn.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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